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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,993	12/28/2001	Susan McConnell	G&C 130.39-US-01	1833
22462	7590	05/22/2006	EXAMINER	
GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045			KOHARSKI, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 05/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,993

Applicant(s)

MCCONNELL ET AL.

Examiner

Christopher D. Koharski

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/19/02, 10/31/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 69-102 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/03/2006. Applicant's election with traverse of the election/restriction in the reply filed on 5/3/2006 is acknowledged. The traversal is on the ground(s) that claimed groups are linked by a common concept. This is not found persuasive because (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

The information disclosure statements (IDS) that were submitted on 7/19/2002 and 10/31/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statements.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 1-5, 13-14, 17-20, 22-27, 31-39, 43-45, 47-48, 51-54, 56-59, and 64-68 are rejected under 35 U.S.C 102(b) as being anticipated by Dugmore (WO 00/56384). Dugmore discloses an adjustable needle assembly device.

Regarding claims 1, 24, 35 and 58, Dugmore discloses a flexible conduit housing (Figure 2A-C) and a base with a spool cartridge (Figure 9-11) that holds the flexible conduit and has a cover attached to the base (26).

Regarding claims 2-5, 25-27, 36-39, 51-53, 59, and 64, Dugmore discloses a device that is capable of infusing insulin into the body through the flexible conduit (12) via reservoir (74) (Figure 2A) to treat diabetes, wherein the flexible element can be dispensed to a certain length (Figure 2A-2C).

Regarding claims 13-14, 17-20, 22-23, 31-34, 43-45, 47-48, 54, 56-57, 65-68, Dugmore discloses a spool (Figure 3A-3C) that can dispense the conduit to fixed length via the directional knob (80). The knob is driven under a ratchet and friction system (Figure 10, 11) that allows for retention at a fixed length.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 16, 29, 42, 46 and 50 are rejected under 35 U.S.C 103(a) as being unpatentable over Dugmore in view of Buyce et al. (6,554,218). Dugmore meets the claim limitations as described above but does not include electrical cable and dispensing from two ends.

However, Buyce et al. teaches a cable management spool. Regarding claims 16, 29, 42, 46 and 50, Buyce et al. teaches a spool cable storage device that contains electrical cable and also allows for dispensing through two ends (col 1, Figure 6).

At the time of the invention, it would have been obvious to use spooling system of Buyce et al. with the system of Dugmore because spool would be able to be used more functionality and would allow for ease of use if the cable can be dispensed through two ends. Both references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Buyce et al.

Claim Rejections - 35 USC § 103

Claim 7, 8, 28, 40, 41, and 60-63 are rejected under 35 U.S.C 103(a) as being unpatentable over Dugmore in view of Buyce et al. in further view of Connelly et al. (6,589,229). Dugmore meets the claim limitations as described above but does not include the addition of a medical sensor hooked up the system used to measure a physiological condition.

However, Connelly et al. teaches a wearable self-contained drug infusion device. Regarding claims 7, 8, 28, 41, and 60-63, Connelly et al. teaches a device that contains piezoelectric and thermal sensors to control the flow rate in the infusion device in response to certain conditions (col 3, ln 1-15, Figure 5).

At the time of the invention, it would have been obvious to use system of Connelly et al. with the system of Dugmore because the addition of sensors allows for automation of infusion and increases overall patient safety. Both references are

analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Connelly et al.

Claim Rejections - 35 USC § 103

Claims 9-11, 15, 21, 49, and 55 are rejected under 35 U.S.C 103(a) as being unpatentable over Dugmore in view of Fike, Sr. (4,844,373). Dugmore meets the claim limitations as described above but does not include a replaceable cartridge.

However, Fike, Sr. teaches a line storage and dispensing device. Regarding claims 9-11, 15, 21, 49, and 55, Fike, Sr. teaches a line dispensing system that uses a replaceable cartridge (Figure 1).

At the time of the invention, it would have been obvious to use the system of Fike, Sr. with the system of Dugmore because the addition of a replaceable spool allows for reuse of the main housing and reduces cost of use. Both references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Fike, Sr.

Claim Rejections - 35 USC § 103

Claims 12 and 30 are rejected under 35 U.S.C 103(a) as being unpatentable over Dugmore in view of Fike, Sr. in further view of Buyce et al. Dugmore meets the claim limitations as described above but does not include electrical cable and dispensing from two ends.

However, Buyce et al. teaches a cable management spool. Regarding claims 12 and 30, Buyce et al. teaches a spool cable storage device that contains electrical cable and also allows for dispensing through two ends (col 1, Figure 6).

At the time of the invention, it would have been obvious to use spooling system of Buyce et al. with the system of Dugmore because spool would be able to be used more functionality and would allow for ease of use if the cable can be dispensed through two ends. Both references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Buyce et al.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on Monday through Friday 7:30am-4:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5/6/06
[Date]


Christopher Koharski
Examiner
Art Unit 3763


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